

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

W.P.NO.3887 OF 1999

Date: 27.07.2005

Between:

M. Srinivasulu

..... Petitioner

and

The Commissioner, Municipal Corporation, Kurnool.

..... REspondent

THE HON'BLE SRI JUSTICE ELIPE DHARMA RAO

W.P.NO.3887 OF 1999

ORDER:

Assailing the endorsement issued by the respondent in BRS.No.459/98/G3, dated 29.12.1998, insisting on the petitioner to pay the penal charges, and directing the respondent to adjust the compensation payable to the petitioner for the acquired land measuring an extent of 142 sq. yards situated in sy.nos.88 and 89 of Kurnool town, the writ petition is filed.

The petitioner claims that himself and his brothers are the absolute owners of the land in an extent of 112.58 sq. yards situated in sy.nos. 88 and 89 of Kurnool town. He constructed ground, first, second and third floors in the said land. The case of the petitioner is that the authorities of the respondent had acquired his land in an extent of 142. sq. yards for the purpose of widening of Kurnool-Ballari road and assessed the compensation to be paid at Rs.1,32,960/-, but so far no amount has been paid to him. While the matter stood thus, the Government issued G.O.Ms.No.419/MA, dated 30.07.1998, to the effect that the individuals shall come forward and declare voluntarily the unauthorized constructions made and to get them regularized by paying the penal charges. It exempted the buildings that were constructed prior to 01.01.1985 and the buildings constructed before 30.06.1998 are permitted to be regularized. Pursuant to the said GO, the petitioner submitted applications for regularization of the deviations in the building. It is alleged that the respondent issued the impugned proceedings, determining the penal charges, contrary to the guidelines issued there under. The grievance of the petitioner is that though he submitted an explanation, dated 02.01.1999, the respondent has not acted on the same.

The writ petition is of the year 1999. However, the respondent has not chosen to file any counter-affidavit.

Heard the learned counsel for the petitioner.

The main grievance of the petitioner is that the respondent has not paid the

compensation for the land acquired from him and that he fixed the penal charges for the purpose of regularizing the unauthorized constructions, contrary to the guidelines issued by the Government in G.O.Ms.NO.419/NA, dated 30.07.1998, without giving an opportunity of being heard. As seen from the record, it is clear that the respondent failed to place before this Court as to on what basis he assessed the penal charges at Rs.17,981-00. Further, the respondent has not considered the representation dated 02.01.1999 submitted by the petitioner.

In that view of the matter, the writ petition is disposed of. The endorsement of the respondent, dated 29.12.1998, is hereby set aside. The respondent is directed to give an opportunity of being heard to the petitioner with regard to the fixation of the penal charges for regularization of his unauthorized construction, as per G.O.Ms.No.419 M.A., dated 30.07.1998, and also to pay the compensation for the extent of land acquired by him for the purpose of road widening. The above exercise shall be completed within 12 weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

27.07.2005

ksld